

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 1:00-cr-183-03

Plaintiff,

Hon. Richard Alan Enslen

v.

LYTARIAN LADON WEAVER,

ORDER

Defendant.

_____ /

This matter is before the Court on Defendant Lytarian Ladon Weaver's Motion to Alter or Amend Judgment pursuant to Rule 59(e).

Defendant argues the Court misconstrued his previous three sentence long Motion as one invoking Federal Rule of Criminal Procedure 35, which allows a court to correct a sentence within seven days of sentencing. (*See* Dkt. No. 78.) Defendant contends his Motion should have been construed as a Motion for Relief pursuant to Federal Rule of Civil Procedure 60(b)(6), where a court may grant relief from judgment for "any other reason justifying relief from the operation of the judgment." FED. R. CIV. P. 60(b)(6). This argument fails however, as Defendant's Motion still fails under Rule 60(b)(6) and therefore there has been no "manifest error of law" and relief pursuant to Rule 59(e) is inappropriate.

To warrant relief under Rule 60(b)(6), Defendant must show "exceptional circumstances." *See Jinks v. AlliedSignal, Inc.*, 250 F.3d 381, 387 (6th Cir. 2001); *Blue Diamond Coal. Co. v. Trustees of UMWA Combined Ben. Fund*, 249 F.3d 519, 524 (6th Cir. 2001); *Olle v. Henry & Wright Corp.*, 910 F.2d 357, 365 (6th Cir. 1990). In the present case, Defendant requests this Court waive the interest on his fine while he is incarcerated so that he could be "afforded a fair opportunity to pay the fine because he could be afforded a more meaningful source of income as opposed to the twelve

cents an hour he now receives though inmate performance pay.” (Mot. at 3.) The fact that Defendant is not in a position where he can make substantial payments on his fine is not an extraordinary circumstance which would justify relief pursuant to Rule 60(b)(6).

THEREFORE, IT IS HEREBY ORDERED that Defendant Lytarian Weaver’s Motion to Alter or Amend Judgment (Dkt. No. 79) is **DENIED**.

Dated in Kalamazoo, MI:
July 2, 2007

/s/Richard Alan Enslen
Richard Alan Enslen
Senior United States District Judge